

Remarks/Arguments

By the present amendment, the related U.S. application data has been updated, claim 39 has been amended to depend from claim 38 rather than claim 37 and claims 16, 29-31 and 41-43 have been canceled. Claims 1-40, 44 and 45 remain in the application. All claims have been rejected. Reconsideration of the rejection of the claims is requested in view of the Declaration of David E. McDowell under 37 C.F.R. §§ 1.131 and 1.132 and in view of the remarks set forth hereinafter.

Enclosed herewith is a Declaration of David E. McDowell under 37 C.F.R. § 1.131 and 1.132 (hereinafter the McDowell Declaration). The McDowell Declaration establishes a date of invention as well as a reduction to practice of the subject matter of claims 1-15, 17-28, 32-37, 40, 44, and 45 prior to October 3, 2000, the effective filing date of the Sham et al. U.S. Patent No. 6,571,421. In addition, the McDowell Declaration establishes that the disclosure of Kasper et al. 6,131,237 (Kasper et al. '237 patent), at least to the extent that it relates to claims 1-15, 17-28, 32-37, 40, 44, and 45, is derived from the invention conceived by Mr. McDowell. Thus, the disclosure in Kasper et al. '237 patent is not a knowledge by "others" or "patented or described in a printed publication . . . before the invention thereof by the applicant" under 35 U.S.C. § 102(a). In this regard, the Examiner's attention is directed to Applicants' claim of priority to a prior U.S. Application Serial No. 09/911,228 filed on July 23, 2001, now U.S. Patent 6,898,820. The disclosure in the priority '228 application supports at least claims 1-15, 17-28, 32-37, 40, 44, and 45 of the present application. Further, the July 23, 2001 filing date of the priority '228 application was less than a year after the October 17, 2000 issue date of the Kasper et al. '237 patent. Thus, 35 U.S.C. § 102(b) does not apply to these claims.

In the Office Action, claim 1 has been rejected under 35 U.S.C. § 102(b) as being anticipated by the Sham et al. '421 patent. This rejection is respectfully traversed.

The Sham et al. '421 patent issued June 3, 2003, after the effective filing date of the present application (July 23, 2001) and thus is not a reference under 35 U.S.C. § 102(b). Further, the Sham et al. '421 patent is not a reference under 35 U.S.C. § 102(c) because the

McDowell Declaration establishes a date of invention and a reduction to practice of the invention of claim 1 prior to the priority date of the Sham et al. '421 patent. Accordingly, Sham et al. '421 is not an appropriate reference against claim 1 under 35 U.S.C. § 102(e). Withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b) over Sham et al. '421 is respectfully requested.

Claims 41-45 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Kasper et al. '237. This rejection is respectfully traversed.

Claims 41-43 have been canceled. Kasper et al. '237 is not a reference under 35 U.S.C. § 102(b) because the issue date of Kasper et al. '237 is less than one year prior to the effective filing date of this application. In addition, the Kasper et al. '237 patent is not a reference against claims 44 and 45 under 35 U.S.C. § 102(a). As demonstrated in the McDowell Declaration, the subject matter disclosed in Kasper et al. '237 as it relates to claims 44 and 45 was derived from the McDowell invention and the disclosure in Kasper et al. '237 patent is not knowledge by "others" or "patented or described in a printed publication . . . before the invention thereof by the applicant" under 35 U.S.C. § 102(a).

Claims 2-40 have been rejected under 35 U.S.C. § 103(a) as being untenable over Sham et al. '421 in view of the Harbeck U.S. Patent No. 4,397,057.

As demonstrated above, the Sham et al. '421 patent is not a reference against any of claims 1-15, 17-28, 32-37, and 40 under 35 U.S.C. § 102(b) or 35 U.S.C. § 102(e) because the effective filing date of the present application is prior to the issue date of Sham et al. '421 and the subject matter of these claims was invented and reduced to practice before the effective filing date of the application for the Sham et al. '421 patent. Therefore Sham et al. '421 can not be a prior art reference under 35 U.S.C. § 103(a) to the extent that it discloses the subject matter of any of claims 1-15, 17-28, 32-37, and 40.

Claim 16 and 29-31 have been canceled.

Sham et al. '421 discloses a vacuum cleaner and steamer that has a fluid assembly for generating and delivering steam to a surface to be cleaned and a vacuum assembly for drawing deposited steam and other matter from the surface. The fluid assembly includes the cleaning

fluid reservoir, a fluid pump for pumping cleaning fluid therefrom, a heater within which the cleaning fluid is turned into steam, and a sprayer head for spraying the steam upon the surface to be cleaned. The vacuum assembly includes a vacuum fan driven by an electric motor, a vacuum head through which matter is drawn, and a waste reservoir that collects soiled liquid and debris from the surface.

The Harbeck '057 patent discloses a carpet cleaner that has fluid distribution system that includes a heater in a solution tank to maintain the temperature of cleaning fluid in the solution tank below boiling, a system for delivering the heated cleaning fluid to a surface to be cleaned and an extraction system to remove soiled cleaning fluid and debris from the surface and deposit the same in a recovery tank.

The alleged combination of Sham et al. '421 and Harbeck '057 is traversed. There is no basis for the alleged combination. Whereas Sham et al. '421 discloses an extractor with an in line heater, Harbeck '057 discloses an extractor with an in tank solution heater. It is not clear what portion of the Harbeck '057 disclosure is alleged to be incorporated into the Sham et al. '421 disclosure.

In any case, the alleged combination of Sham et al. '421 and Harbeck '057 does not meet the invention of claims 38 and 39. Claims 38 and 39 relate to a vapor conduit provided between a vapor generator and vapor dispenser and a fluid conduit between the fluid supply tank and a fluid dispenser that passes through the vapor conduit in heat exchange relationship therewith for heating the cleaning fluid in the fluid conduit. This concept is not disclosed in either Sham et al. '421 or Harbeck '057. Thus, the alleged combination of Sham et al. '421 and Harbeck '057 cannot meet the limitations of claims 38 and 39.

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In view of the foregoing remarks and amendments, it is submitted that the claims are in condition for allowance. Early notification of allowability is respectfully requested.

Respectfully submitted,

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